

United States District Court

Eastern District of Michigan

United States of America
V.
KANWAR MENDIRATTA

JUDGMENT IN A CRIMINAL CASE

Case Number: 11CR20168-1
USM Number: 45898-039

Todd F. Flood
Defendant's Attorney

THE DEFENDANT:

■ Plead guilty to count(s) **1 of Information.**

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. 841(a)(1)	Possession With Intent to Distribute Controlled Substances	July 2010	1

The defendant is sentenced as provided in pages **2 through 4** of this judgment. This sentence is imposed pursuant to the Sentencing Reform Act of 1984

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

3/30/2012
Date of Imposition of Judgment



s/Victoria A Roberts
United States District Judge

4/12/2012
Date Signed

DEFENDANT: KANWAR MENDIRATTA
CASE NUMBER: 11CR20168-1

PROBATION

The defendant is hereby sentenced to probation for a term of: 24 months..

The defendant shall not commit another federal, state or local crime.

If the defendant is convicted of a felony offense, DNA collection is required by Public Law 108-405.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court. Revocation of Probation is mandatory for possession of a controlled substance.

■ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement; and
- 14) the defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. Revocation of supervised release is mandatory for possession of a firearm.

DEFENDANT: KANWAR MENDIRATTA
CASE NUMBER: 11CR20168-1

CRIMINAL MONETARY PENALTIES

	Assessment	Fine	Restitution
TOTALS:	\$ 100.00	\$ 150,000.00	\$ 0.00

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
TOTALS:	\$ 0.00	\$ 0.00	

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: KANWAR MENDIRATTA
CASE NUMBER: 11CR20168-1

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The United States is ordered to pay to the Clerk of the Court the fine imposed against Defendant by utilizing the following property seized from Defendant: \$254,428.00 in United States currency, Asset ID Number 10-DEA-537071. The remaining balance of the seized property, including additional property seized from Defendant and identified as \$59,000.00 in United States Currency Asset ID Number 10-DEA-537079, shall be distributed by the Government to the Internal Revenue Service to satisfy Defendant's tax liability as agreed to by the parties in the Rule 11 Plea Agreement.

The Court waives imposition of the costs of incarceration and supervision due to the defendant's fine and lack of additional resources.

FILED

JUN 13 2011

CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN MICHIGAN

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
vDivision DIVISION

UNITED STATES OF AMERICA,

No. 11-cr-20168

Plaintiff,

HON. VICTORIA A. ROBERTS

-VS-

OFFENSE(S): 21 U.S.C. §841
Distribution of controlled substance

D-1 KANWAR MENDIRATTA

MAXIMUM PENALTY: Count 1: 20 years
in prison and/or \$1,000,000 fine

Defendant.

SUPRLs 3 to 5 years

RULE 11 PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant
vDEFENDANT and the government agree as follows:

1. GUILTY PLEA

A. Count(s) of Conviction

Defendant will enter a plea of guilty to **Count(s) 1** of the Information, which
charge (s) distribution of controlled substance.

B. Elements of Offense(s)

The elements of Count 1:

One: The Defendant knowingly and intentionally caused the distribution

of controlled substances : and

Two: At the time of such distribution or transfer, the defendant knew that the substances distributed were controlled substances.

C. Factual Basis for Guilty Plea

The following facts are a sufficient and accurate basis for defendant's guilty plea(s): Between January 2009 and July 2010, the defendant, a medical doctor, wrote prescriptions for oxycontin, a schedule II narcotic controlled substance which were outside the course of usual medical practice. The defendant did not examine the individuals for whom he wrote the prescriptions and made no determination of the need for the medications. The defendant wrote prescriptions for eight individuals for a total of 228 grams of oxycontin (oxycodone). The prescriptions were filled and the oxycontin was sold and not used for legitimate medical purposes.

2. SENTENCING GUIDELINES

A. Standard of Proof

The Court will find sentencing factors by a preponderance of the evidence.

B. Agreed Guideline Range

There are no sentencing guideline disputes. Except as provided below, defendant's guideline range is **87 to 108** months, as set forth on the attached worksheets. If the Court finds:

a) that defendant's criminal history category is higher than reflected on the attached worksheets, or

b) that the offense level should be higher because, after pleading guilty, defendant made any false statement to or withheld information from His probation officer; otherwise demonstrated a lack of acceptance of responsibility for His offense(s); or obstructed justice or committed any crime,

and if any such finding results in a guideline range higher than **87 to 108**, the higher guideline range becomes the agreed range. However, if the Court finds that defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does *not* authorize a corresponding increase in the agreed range.

Neither party may take a position concerning the applicable guidelines that is different than any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections a) and b), above.

C. Relevant Conduct

The relevant conduct in this case includes the following:

N/A

3. SENTENCE

The Court will impose a sentence pursuant to 18 U.S.C. §3553, and in doing so must consider the sentencing guideline range.

A. Imprisonment

Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) the sentence of imprisonment in this case may not exceed the top of the sentencing guideline range as determined by Paragraph 2B.

B. Supervised Release

A term of supervised release, if imposed, follows the term of imprisonment. There is no agreement on supervised release. In other words, the Court may impose any term of supervised release up to the statutory maximum term, which in this case is **3 years**. The agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

A term of supervised release follows the term of imprisonment. The Court **must** impose a term of supervised release on Count 1 of no less than **2 years**. The

agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

C. Special Assessment

Defendant will pay a special assessment of **\$100** and must provide the government with a receipt for the payment before sentence is imposed.

D. Fine

Defendant agrees to pay a minimum fine of **\$150,000**. Defendant agrees that payment of the stipulated minimum fine shall be accomplished by utilizing property seized from Defendant for the purpose of administrative forfeiture (DEA Case No. I7-10-0028). Defendant acknowledges that the Drug Enforcement Administration (DEA) has provided notice of the seizure and that Defendant has filed an administrative claim for the return of the seized property. Defendant further acknowledges that no other person has filed a claim to the seized property, thus allowing Defendant to apply the seized property as agreed to here.

The parties agree that the fine imposed by the Court shall be paid to the Clerk of the Court by utilizing the following seized property:

\$254,428.00 in United States Currency, Asset ID Number 10-DEA-537071.

The parties also agree that after the fine imposed by the Court is paid, the amount

remaining from the above-referenced property shall not be forfeited but shall be distributed to the Internal Revenue Service (IRS) to be applied toward Defendant Kanwar Mendiratta's tax liability.

The parties further agree that the following additional property seized for administrative forfeiture shall also be distributed to the IRS and will be applied toward Kanwar V. Mendiratta's tax liability:

\$59,900 in United States Currency, Asset ID Number 10-DEA-537079.

In order to facilitate this agreement the parties request that the Court include the following language in the Judgment and Commitment Order:

The United States is ordered to pay to the Clerk of the Court the fine imposed against Defendant by utilizing the following property seized from Defendant:

\$254,428.00 in United States Currency, Asset ID Number 10-DEA-537071.

The remaining balance of the seized property, including additional property seized from Defendant and identified as *\$59,900 in United States Currency, Asset ID Number 10-DEA-537079*, shall be distributed by the Government to the Internal Revenue Service to satisfy Defendant's tax liability as agreed to by the parties in the Rule 11 Plea Agreement.

The parties also agree that the following property seized for administrative forfeiture shall be returned to Defendant:

Seventy-Five (75) Pieces of Assorted Jewelry, Asset ID Number 10-DEA-536940.

In entering into this agreement with respect to the assets identified above, Defendant knowingly, voluntarily, and intelligently waives any challenge to the above-described action based upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution. Defendant hereby releases and forever discharges the United States of America, the DEA, and their respective agencies, agents and employees from any and all claims, rights or causes of action, damages, expenses and costs, which Defendant has or may have arising from or concerning the seizure and detention of the above-listed property. Defendant further waives any other rights he may have to contest application of the assets described here.

E. Restitution

N/A

F. Forfeiture

Forfeiture is not being sought in these proceedings.

#4. Cooperation Agreement

The written cooperation agreement between defendant and the government, which is dated _____ is part of this plea agreement.

Use of Withdrawn Guilty Plea

If the Court allows defendant to withdraw His guilty plea for a "fair and just reason" pursuant to Fed. R. Crim. P. 11(d)(2)(B) , defendant waives His rights under Fed. R. Evid. 410, and the government may use His guilty plea, any statement made under oath at the change-of-plea hearing, and the factual basis statement in this plea agreement, against Him in any proceeding.

#6. EACH PARTY'S RIGHT TO WITHDRAW FROM THIS AGREEMENT

The government may withdraw from this agreement if the Court finds the correct guideline range to be different than is determined by Paragraph 2B. .

Defendant may withdraw from this agreement, and may withdraw His guilty plea, if the Court decides to impose a sentence higher than the maximum allowed by Part 3. This is the only reason for which defendant may withdraw from this agreement. The Court shall advise defendant that if He does not withdraw His guilty plea under this circumstance, the Court may impose a sentence greater than the maximum allowed by Part 3.

#7. WAIVER OF APPEAL

Defendant waives any right He may have to appeal his conviction. If the sentence imposed does not exceed the maximum allowed by Part 3 of this agreement, defendant also waives any right He may have to appeal His sentence. If the sentence imposed is within the guideline range determined by Paragraph 2B the government agrees not to appeal the sentence, but retains its right to appeal any sentence below that range.

#8. CONSEQUENCES OF WITHDRAWAL OF GUILTY PLEA(S) OR VACATION OF CONVICTION(S)

If defendant is allowed to withdraw His guilty plea(s) or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against defendant within six months after the date the order vacating defendant's conviction or allowing Him to withdraw His guilty plea(s) becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea(s) or to any conduct reflected in the attached worksheets, defendant waives His right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

#9. PARTIES TO PLEA AGREEMENT

Unless otherwise indicated, this agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan.

#10. SCOPE OF PLEA AGREEMENT

This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. This agreement supersedes all other promises, representations, understandings and agreements between the parties concerning the subject matter of this plea agreement that were made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to defendant or to the attorney for the defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

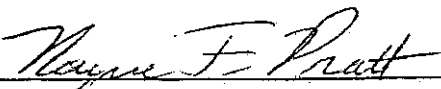
Notwithstanding the previous paragraph, if defendant has entered into a proffer agreement in writing or a cooperation agreement in writing with the government, this plea agreement does not supersede or abrogate the terms of any such prior written agreement.

This agreement also does not prevent any civil or administrative actions against defendant, or any forfeiture claim against any property, by the United States or any other party.

#11. ACCEPTANCE OF AGREEMENT BY DEFENDANT

This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by 5:00 P.M. on **March 4 11, 2011**. The government reserves the right to modify or revoke this offer at any time before defendant pleads guilty.


BARBARA L. MCQUADE
United States Attorney



WAYNE F. PRATT
ASSISTANT UNITED STATES ATTORNEY
CHIEF HEALTH CARE FRAUD UNIT


F. WILLIAM SOISSON
ASSISTANT UNITED STATES ATTORNEY

DATE:

BY SIGNING BELOW, DEFENDANT ACKNOWLEDGES THAT HE HAS READ (OR BEEN READ) THIS ENTIRE DOCUMENT, UNDERSTANDS IT, AND AGREES TO ITS TERMS. HE ALSO ACKNOWLEDGES THAT HE IS SATISFIED WITH HIS ATTORNEY'S ADVICE AND REPRESENTATION. DEFENDANT AGREES THAT HE HAS HAD A FULL AND COMPLETE OPPORTUNITY TO CONFER WITH HIS LAWYER, AND HAS HAD ALL OF HIS QUESTIONS ANSWERED BY HIS LAWYER.


TODD F. FLOOD
ATTORNEY FOR DEFENDANT


KANWAR MENDIRATTA
DEFENDANT

DATE: 3/9/11

WORKSHEET A (Offense Levels)Defendant: KANWAR MENDIRATTA Count(s): 1Docket No.: _____ Statute(s) 21 U.S.C. §841

Complete one Worksheet A for each count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction) before applying the multiple-count rules in U.S.S.G. ch. 3, pt. D. However, in any case involving multiple counts of conviction, if the counts of conviction are all "closely related" to each other within the meaning of U.S.S.G. § 3D1.2(d), complete only a single Worksheet A.

1. BASE OFFENSE LEVEL AND SPECIFIC OFFENSE CHARACTERISTICS (U.S.S.G. ch. 2)

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
<u>2D1.1(c)(4)</u>	<u>MORE THAN 1000 KG MARIHAUNA</u>	<u>32</u>
_____	_____	<input type="text"/>
_____	_____	<input type="text"/>
_____	_____	<input type="text"/>
_____	_____	<input type="text"/>
_____	_____	<input type="text"/>

2. ADJUSTMENTS (U.S.S.G. ch. 3, pts. A, B, C)

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
<u>3B1.3</u>	<u>Abuse of position</u>	<u>2</u>
<u>2D1.1(b)(1)</u>	<u>Safety valve</u>	<u>-2</u>
_____	_____	<input type="text"/>

3. ADJUSTED OFFENSE LEVEL

Enter the sum of the offense levels entered in Items 1 and 2. If this Worksheet A does not cover every count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction), complete one or more additional Worksheets A and a single Worksheet B.

32

If this is the only Worksheet A, check this box and skip Worksheet B.


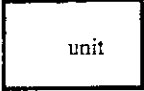

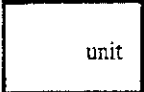

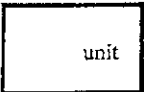
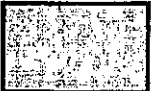
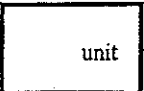
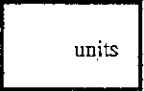


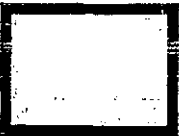
☐

If the defendant has no criminal history, check this box and skip Worksheet C.

☐

WORKSHEET B (Multiple Counts)**Instructions** (U.S.S.G. ch. 3, pt. D):

- Group the counts of conviction into distinct Groups of Closely Related Counts. "All counts involving substantially the same harm shall be grouped together into a single Group." (See U.S.S.G. § 3D1.2.)
- Determine the offense level applicable to each Group. (See U.S.S.G. § 3D1.3.)
- Determine the combined offense level by assigning "units" to each Group as follows (see U.S.S.G. § 3D1.4):
 - assign 1 unit to the Group with the highest offense level,
 - assign 1 unit to each additional Group that is equally serious as, or 1 to 4 levels less serious than, the Group with the highest offense level,
 - assign ½ unit to each Group that is 5 to 8 levels less serious than the Group with the highest offense level,
 - assign no units to each Group that is 9 or more levels less serious than the Group with the highest offense level.

1.	GROUP ONE: COUNTS _____ ADJUSTED OFFENSE LEVEL _____		 unit
2.	GROUP TWO: COUNTS _____ ADJUSTED OFFENSE LEVEL _____		 unit
3.	GROUP THREE: COUNTS _____ ADJUSTED OFFENSE LEVEL _____		 unit
4.	GROUP FOUR: COUNTS _____ ADJUSTED OFFENSE LEVEL _____		 unit
5.	TOTAL UNITS		 units
6.	INCREASE IN OFFENSE LEVEL 1 unit → no increase 2½-3 units → add 3 levels 1½ units → add 1 level 3½-5 units → add 4 levels 2 units → add 2 levels >5 levels → add 5 levels		
7.	ADJUSTED OFFENSE LEVEL OF GROUP WITH THE HIGHEST OFFENSE LEVEL		
8.	COMBINED ADJUSTED OFFENSE LEVEL		

Enter the sum of the offense levels entered in Items 6 and 7.

WORKSHEET C (Criminal History)

Date of defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses): _____

1. PRIOR SENTENCES**Prior Sentence of Imprisonment Exceeding 13 Months (U.S.S.G. §§ 4A1.1(a)):** **3 POINTS**

Enter 3 points for each prior adult sentence of imprisonment exceeding one year and one month that either (1) was imposed within 15 years of the defendant's commencement of the instant offenses (taking into account relevant conduct and stipulated offenses) or (2) resulted in the defendant's confinement during any part of that 15-year period. (See U.S.S.G. §§ 4A1.1(a), 4A1.2(d)(1), (e)(1).)

Prior Sentence of Imprisonment of at Least 60 Days (U.S.S.G. §§ 4A1.1(b)): **2 POINTS**

Enter 2 points for each prior sentence of imprisonment of at least 60 days not counted under U.S.S.G. § 4A1.1(a) that either (1) resulted from an offense committed after the defendant turned 18 and was imposed within 10 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(b), 4A1.2(e)(2)) or (2) resulted from an offense committed before the defendant turned 18 and resulted in the defendant's confinement during any part of the 5-year period preceding the defendant's commencement of the instant offense (see U.S.S.G. §§ 4A1.1(b), 4A1.2(d)(2)(A)).

Other Prior Sentences (U.S.S.G. §§ 4A1.1(c)): **1 POINT**

Enter 1 point for each prior sentence not counted under U.S.S.G. § 4A1.1(a) or (b) that either (1) resulted from an offense committed after the defendant turned 18 and was imposed within 10 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(c), 4A1.2(e)(2)) or (2) resulted from an offense committed before the defendant turned 18 and was imposed within 5 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(c), 4A1.2(d)(2)(B)). NOTE: No more than 4 points may be added under this item.

<u>Date of Imposition</u>	<u>Status*</u>	<u>Offense</u>	<u>Sentence</u>	<u>Release Date**</u>	<u>Points</u>
_____	_____	_____	_____	_____	<div style="border: 1px solid black; width: 40px; height: 30px; margin: 0 auto;"></div>
_____	_____	_____	_____	_____	<div style="border: 1px solid black; width: 40px; height: 30px; margin: 0 auto;"></div>
_____	_____	_____	_____	_____	<div style="border: 1px solid black; width: 40px; height: 30px; margin: 0 auto;"></div>

* If the defendant committed the offense before turning 18, indicate whether he or she was sentenced as a juvenile (J) or as an adult (A).

** A release date is required in only three situations: (1) when a sentence covered under U.S.S.G. § 4A1.1(a) was imposed more than 15 years before the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) but resulted in his or her confinement during any part of that 15-year period; (2) when a sentence counted under U.S.S.G. § 4A1.1(b) was imposed for an offense committed before the defendant turned 18 but resulted in his or her confinement during any part of the 5-year period preceding his or her commencement of the instant offense (taking into account relevant conduct and stipulated offenses); and (3) when 2 criminal history points are added pursuant to U.S.S.G. § 4A1.1(e) because the defendant committed the instant offense (taking into account relevant conduct and stipulated offenses) shortly after or during imprisonment resulting from a sentence counted under U.S.S.G. § 4A1.1(a) or (b) or while he or she was on escape status for such a sentence.

(rev. 06/99)

(WORKSHEET C, p. 2)

2. **COMMISSION OF INSTANT OFFENSE WHILE UNDER PRIOR SENTENCE (U.S.S.G. § 4A1.1(d))**

Enter 2 points if the defendant committed any part of the instant offense (taking into account relevant conduct and stipulated offenses) while under any criminal justice sentence having a custodial or supervisory component, including probation, parole, supervised release, imprisonment, work release, and escape status. (See U.S.S.G. §§ 4A1.1(d), 4A1.2(m), (n).) List the type of control and identify the sentence from which it resulted.

3. **COMMISSION OF INSTANT OFFENSE SHORTLY AFTER OR DURING IMPRISONMENT (U.S.S.G. § 4A1.1(e))**

Enter 2 points if the defendant committed any part of the instant offense (taking into account relevant conduct and stipulated offenses) either less than 2 years after release from imprisonment on a sentence counted under U.S.S.G. §§ 4A1.1(a) or 4A1.1(b) or while in imprisonment or escape status on such a sentence. However enter, only 1 point for this item if 2 points were added under Item 2. (See U.S.S.G. §§ 4A1.1(e), 4A1.2(n).) List the date of release and identify the sentence from which it resulted.

4. **PRIOR SENTENCE RESULTING FROM CRIME OF VIOLENCE (U.S.S.G. § 4A1.1(f))**

Enter 1 point for each prior sentence resulting from a conviction for a crime of violence that did not receive any points under U.S.S.G. § 4A1.1(a), (b), or (c) because such sentence was considered related to another sentence resulting from a conviction for a crime of violence. But enter no points where the sentences are considered related because the offenses occurred on the same occasion. (See U.S.S.G. §§ 4A1.1(f), 4A1.2(p).) Identify the crimes of violence and briefly explain why the cases are considered related. NOTE: No more than 3 points may be added under this item.

5. **TOTAL CRIMINAL HISTORY POINTS**

Enter the sum of the criminal history points entered in Items 1-4.

6. **CRIMINAL HISTORY CATEGORY**

Total Criminal History Points

Criminal History Category

0 - 1
2 - 3
4 - 6
7 - 9
10 - 12
≥ 13

I
II
III
IV
V
VI

WORKSHEET D (Guideline Range)**1. (COMBINED) ADJUSTED OFFENSE LEVEL**

32

Enter the adjusted offense level entered in Item 3 of Worksheet A or the combined adjusted offense level entered in Item 8 of Worksheet B.

2. ADJUSTMENT FOR ACCEPTANCE OF RESPONSIBILITY (U.S.S.G § 3E1.1)

3

3. TOTAL OFFENSE LEVEL

29

Enter the difference between Items 1 and 2.

4. CRIMINAL HISTORY CATEGORY

I

Enter "I" if the defendant has no criminal history. Otherwise, enter the criminal history category entered in Item 6 of Worksheet C.

5. CAREER OFFENDER / CRIMINAL LIVELIHOOD / ARMED CAREER CRIMINAL (U.S.S.G. ch. 4, pt. B)

a. Total Offense Level: If the career offender provision (U.S.S.G. § 4B1.1), the criminal livelihood provision (U.S.S.G. § 4B1.3), or the armed career criminal provision (U.S.S.G. § 4B1.4) results in a total offense level higher than the total offense level entered in Item 3, enter the higher offense level total.

b. Criminal History Category: If the career offender provision (U.S.S.G. § 4B1.1) or the armed career criminal provision (U.S.S.G. § 4B1.4) results in a criminal history category higher than the criminal history category entered in Item 4, enter the higher criminal history category.

6. GUIDELINE RANGE FROM SENTENCING TABLE (U.S.S.G. ch. 5, pt. A)

87 to 108

Enter the guideline range in the Sentencing Table (see U.S.S.G. ch. 5, pt. A) produced by the total offense level entered in Item 3 or 5.a and the criminal history category entered in Item 4 or 5.b.

months

7. STATUTORY RESTRICTIONS ON OR SUPERSESSION OF GUIDELINE RANGE

months

If the maximum sentence authorized by statute is below, or a minimum sentence required by statute is above, the guideline range entered in Item 6, enter either the guideline range as restricted by statute or the sentence required by statute. (See U.S.S.G. § 5G1.1.) If the sentence on any count of conviction is required by statute to be consecutive to the sentence on any other count of conviction, explain why.

WORKSHEET E (Authorized Guideline Sentences)

1. PROBATION (U.S.S.G. ch. 5, pt. B)

a. Imposition of a Term of Probation (U.S.S.G. § 5B1.1)

☒

1. Probation is not authorized by the guidelines (minimum of guideline range > 6 months or statute of conviction is a Class A or a Class B felony). If this box is checked, go to Item 2 (Split Sentence).

☐

2. Probation is authorized by the guidelines (minimum of guideline range = zero months).

☐

3. Probation is authorized by the guidelines, provided the court imposes a condition or combination of conditions requiring intermittent confinement, community confinement, or home detention satisfying the minimum of the guideline range (minimum of guideline range > 0 months but ≤ 6 months).

b. Length of Term of Probation (U.S.S.G. § 5B1.2)

☐

1. At least 1 year but not more than 5 years (total offense level ≥ 6).

☐

2. No more than 3 years (total offense level < 6).

c. Conditions of Probation (U.S.S.G. § 5B1.3)

The court must impose certain conditions of probation and may impose other conditions of probation.

2. SPLIT SENTENCE (U.S.S.G. § 5C1.1(c)(2), (d)(2))

☐

- a. A split sentence is not authorized (minimum of guideline range = 0 months or > 10 months).

☐

- b. A split sentence is authorized (minimum of guideline range > 0 months but ≤ 10 months). The court may impose a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention for imprisonment, provided that at least one-half of the minimum of the guideline range is satisfied by imprisonment (if the minimum of the guideline range is 8, 9, or 10 months), or that at least one month is satisfied by imprisonment (if the minimum of the guideline range is 1, 2, 3, 4, or 6 months). The authorized length of the term of supervised release is set forth below in Item 4.b

3. IMPRISONMENT (U.S.S.G. ch. 5, pt. C)

A term of imprisonment is authorized by the guidelines if it is within the applicable guideline range (entered in Item 6 of Worksheet D). (See U.S.S.G. § 5C1.1.)

(WORKSHEET E, p. 2)

4. SUPERVISED RELEASE (U.S.S.G. ch 5., pt. D)

a. Imposition of a Term of Supervised Release (U.S.S.G. § 5D1.1)

The court must impose a term of supervised release if it imposes a term of imprisonment of more than one year, or if it is required to do so by statute. The court may impose a term of supervised release if it imposes a term of imprisonment of one year or less.

b. Length of Term of Supervised Release (U.S.S.G. § 5D1.2)☐

1. At least 3 years but not more than 5 years, where the count of conviction is a Class A or a Class B felony, i.e., an offense carrying a maximum term of imprisonment \geq 25 years.

☒

2. At least 2 years but not more than 3 years, where the count of conviction is a Class C or a Class D felony, i.e., an offense carrying a maximum term of imprisonment \geq 5 years but $<$ 25 years.

☐

3. 1 year, where the count of conviction is a Class E felony or a Class A misdemeanor, i.e., an offense carrying a maximum term of imprisonment $>$ 6 months but $<$ 5 years.

☐

4. The statute of conviction requires a minimum term of supervised release of _____ months.

c. Conditions of Supervised Release (U.S.S.G. § 5D1.3)

The court must impose certain conditions of supervised release and may impose other conditions of supervised release.

5. RESTITUTION (U.S.S.G. § 5E1.1)

☐

1. The court will determine whether restitution should be ordered and in what amount.

☐

2. Full restitution to the victim(s) of the offense(s) of conviction is *required* by statute. (See, e.g., 18 U.S.C. §§ 3663A, 2327.) The parties agree that full restitution is \$_____.

☐

3. The parties agree that the court may order restitution to the victim(s) of the offense(s) of conviction in any amount up to and including \$_____. (See 18 U.S.C. §§ 3663(a)(3).)

☐

4. The parties agree that the court may *also* order restitution to persons other than the victim(s) of the offense(s) of conviction. (See 18 U.S.C. §§ 3663(a)(1)(A), 3663A(a)(3).)

☒

5. Restitution is not applicable.

(WORKSHEET E, p. 3)

6. FINE (U.S.S.G. § 5E1.2)**a. Fines for Individual Defendants**

The court must impose a fine unless "the defendant establishes that he [or she] is unable to pay and is not likely to become able to pay any fine." (See U.S.S.G. § 5E1.2(a).) Generally, the fine authorized by the guidelines is limited to the range established in the Fine Table. (See U.S.S.G. § 5E1.2(b).) However, there are exceptions to this general rule. (See U.S.S.G. § 5E1.2(b), (c)(4).)

b. Fine Range from Fine Table (U.S.S.G. § 5E1.2(c)(3))

<u>Minimum Fine</u>	<u>Maximum Fine</u>
\$ <u>15,000</u>	\$ <u>150,000</u>

7. SPECIAL ASSESSMENT(S) (U.S.S.G. § 5E1.3)

The court must impose a special assessment on every count of conviction. The special assessments for individual defendants are

\$100.00 for every count charging a felony (\$50.00 if the offense was completed before April 24, 1996)
 \$ 25.00 for every count charging a Class A misdemeanor,
 \$ 10.00 for every count charging a Class B misdemeanor, and
 \$ 5.00 for every count charging a Class C misdemeanor or an infraction.

The defendant must pay a special assessment or special assessments in the total amount of \$ _____.

8. ADDITIONAL APPLICABLE GUIDELINES, POLICY STATEMENTS, AND STATUTES

List any additional applicable guideline, policy statement, or statute.

9. UPWARD OR DOWNWARD DEPARTURE (U.S.S.G. ch. 5, pts. H & K)

List any applicable aggravating or mitigating circumstance that might support a term of imprisonment above or below the applicable guideline range.

2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

D-1 KANWAR MENDIRATTA,

Defendant.

Case:2:11-cr-20168
Judge: Roberts, Victoria A.
MJ: Randon, Mark A.
Filed: 03-25-2011 At 03:19 PM
INFO USA V KANWAR MENDIRATTA (EB)

VIO: 21 U.S.C. §841(a)(1)

INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

(21 U.S.C. §841(a)(1) - Possession With Intent to Distribute Controlled Substances)

D-1 KANWAR MENDIRATTA

That between in or about November 2006, in the Eastern District of Michigan, Southern Division, KANWAR MENDIRATTA, defendant herein, did knowingly, intentionally and unlawfully, distribute, outside the course of professional medical practice and for no legitimate medical purpose, approximately 228 grams of oxycontin (oxycodone), a Schedule II narcotic controlled substance; in violation of Section 841(a)(1), Title 21 United States Code.

BARBARA L. McQUADE
United States Attorney

s/F. WILLIAM SOISSON
Assistant United States Attorney
211 W. Fort Street, Ste. 2001
Detroit, MI 48226
william.soisson@usdoj.gov
P24766

Dated: March 25, 2011

ORIGINALUnited States District Court
Eastern District of Michigan**Criminal Case**

Case: 2:11-cr-20168

Judge: Roberts, Victoria A.

MJ: Randon, Mark A.

Filed: 03-25-2011 At 03:19 PM

INFO USA V KANWAR MENDIRATTA (EB)

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to

Reassignment/Recusal Information This matter was opened in the USAO prior to August 10, 2009.**Companion Case Information**

Companion Case Number: N/A

This may be a companion case based upon LCrR 57.10 (b)(4)¹:

Judge Assigned: N/A

☐ Yes☒ NoAUSA's Initials: *AMS*Case Title: USA v. KANWAR MENDIRATTACounty where offense occurred : Oakland

Check One:

☒ Felony☐ Misdemeanor☐ Petty Indictment/ ☒ Information --- no prior complaint. Indictment/ Information --- based upon prior complaint [Case number:] Indictment/ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].**Superseding Case Information**Superseding to Case No: Judge: ☐ Original case was terminated; no additional charges or defendants.☐ Corrects errors; no additional charges or defendants.☐ Involves, for plea purposes, different charges or adds counts.☐ Embraces same subject matter but adds the additional defendants or charges below:Defendant nameChargesPrior Complaint (if applicable)

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

March 25, 2011

Date

F. William Soisson
F. WILLIAM SOISSONAssistant United States Attorney
211 W. Fort Street, Suite 2001

Detroit, MI 48226-3277

Phone: (313) 226-9668

Fax: (313) 226-2621

E-Mail address: william.soisson@usdoj.gov

Attorney Bar #: P24766

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF HEALTH PROFESSIONS
BOARD OF MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of

Kanwar V.M. Mendiratta, M.D.
License No. 43-01-0421292
_____ /

Complaint No. 43-12-124020

CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on September 19, 2012, charging Kanwar V.M. Mendiratta, M.D. (Respondent) with having violated sections 16221(b)(v), (b)(vi), (c)(iv) and (i) and 16222(3) of the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 *et seq.*

The parties have stipulated that the Disciplinary Subcommittee may enter this consent order. The Disciplinary Subcommittee has reviewed the stipulation contained in this document and agrees that the public interest is best served by resolution of the outstanding complaint. Therefore, the Disciplinary Subcommittee finds that the allegations of fact contained in the complaint are true and that Respondent has violated sections 16221(b)(v), (c)(iv) and (i) and 16222(3) of the Public Health Code.

STIPULATION

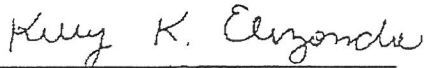
The parties stipulate as follows:

1. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, he does not admit the truth of the allegations but agrees that the Disciplinary Subcommittee may treat the allegations as true for resolution of the complaint and may enter an order treating the allegations as true.
2. Respondent understands and intends that, by signing this stipulation, he is waiving the right under the Public Health Code, rules promulgated under the Public Health Code, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 *et seq*, to require the Department to prove the charges set forth in the complaint by presentation of evidence and legal authority, and to present a defense to the charges before the Disciplinary Subcommittee or its authorized representative. Should the Disciplinary Subcommittee reject the proposed consent order, the parties reserve the right to proceed to hearing.
3. The Disciplinary Subcommittee may enter the above Consent Order, supported by Board conferee Richard Burney, M.D. Dr. Burney or an attorney from

- H. Respondent attended a compliance conference with Dr. Burney and the assistant attorney general on November 15, 2012.
- I. Respondent explained that he has a small private practice where everyone in his office knows each other and treats each other like family.
- J. A man Respondent's office manager was dating would frequently come into the office and would often engage Respondent in conversation.
- K. Respondent liked this person and over time thought he knew him quite well through their contact at his office.
- L. Respondent explained that the man told him he had family members that were coming to see him as patients as soon as their insurance was finalized. Respondent explained that the man told him in great detail about the fictitious patients' chronic pain issues and asked if Respondent could write prescriptions for Oxycontin as the "patients" would be coming in to see him the following week.
- M. Respondent is a very generous and open individual who has always been known to bend over backwards for patients. Respondent was so taken in by this person that he wrote 7 prescriptions for therapeutic Oxycontin in anticipation of seeing and treating these "patients" imminently.

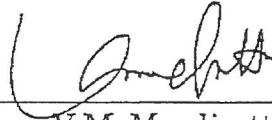
By signing this stipulation, the parties confirm that they have read,
understand and agree with the terms of the consent order.

AGREED TO BY:



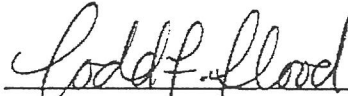
Kelly K. Elizondo
Assistant Attorney General
Attorney for Complainant
Dated: 12-12-12

AGREED TO BY:



Kanwar V.M. Mendiratta, M.D.
Respondent

Dated: 12/5/12



Todd F. Flood
Attorney for Respondent

Dated: 12/5/12

S:\L&R_Users\Elizondok\Filing Cabinet Elizondok\Cases\2012\Mendiratta, M.D.\Mendiratta COS

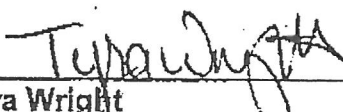
Nov. 20. 2012 12:39PM

No. 3018 P. 2/3

12-001759-BHCS

Page 2

IT IS FURTHER ORDERED that the contested case hearing in the above-captioned matter remains scheduled at 1:30 p.m. on January 7, 2013, at the Michigan Administrative Hearing System, Cadillac Place, 2nd Floor Annex, Suite 2-700, 3026 W. Grand Blvd., Detroit, Michigan.



Tyra Wright
Administrative Law Judge

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF HEALTH PROFESSIONS
BOARD OF MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of

KANWAR V.M. MENDIRATTA, M.D.
License Number: 43-01-041292

File Number: 43-12-124020

ORDER OF SUMMARY SUSPENSION

WHEREAS, an Administrative Complaint has been filed against the above-named Respondent as provided by the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 et seq, rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq; and

WHEREAS, section 16233(5) of the Public Health Code, supra, mandates the Department of Licensing and Regulatory Affairs, hereafter Department, to find that the public health, safety and welfare requires emergency action if a licensee or registrant is convicted of a felony; a misdemeanor punishable by imprisonment for a maximum of two years; or a misdemeanor involving the illegal delivery, possession or use of a controlled substance; and

WHEREAS, based on Respondent's conviction as set forth in the Administrative Complaint, and pursuant to section 16233(5) of the Public Health Code, supra, the Department finds that the public health, safety or welfare requires emergency action; now, therefore,

IT IS HEREBY ORDERED that Respondent's license to practice medicine in the state of Michigan shall be and hereby is SUMMARILY SUSPENDED, commencing the date this Order is served.

Section 7311(6) of the Public Health Code, supra, provides that a controlled substance license is automatically void if a licensee's license to practice is suspended or revoked under Article 15 of the Public Health Code.

Under 1996 AACS, R338.1610, Respondent has the right to petition for the dissolution of this Order of Summary Suspension. This petition shall clearly state that it is a Petition for Dissolution of Summary Suspension and shall be filed with the Department of Licensing and Regulatory Affairs, Bureau of Health Professions, 611 West Ottawa Street, P.O. Box 30670, Lansing, Michigan 48909.

MICHIGAN DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS

Dated: 9/19/2012

By: Rae Ramsdell
Rae Ramsdell, Director
Bureau of Health Professions

If a licensee or registrant is convicted of a felony; a misdemeanor punishable by imprisonment for a maximum term of two years; or a misdemeanor involving the illegal delivery, possession or use of a controlled substance, the department shall find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, shall summarily suspend the licensee's license or the registrant's registration.

4. Section 7311(6) of the Public Health Code, supra, provides that a controlled substance license is automatically void if a licensee's license to practice is suspended or revoked under Article 15 of the Public Health Code.

5. Good moral character is defined at Section 1 of 1974 PA 38, as amended; MCL 338.41 et seq, as "the propensity of the person to serve the public in the licensed area in a fair, honest, and open manner."

6. On March 30, 2012, in the United States District Court, Eastern District of Michigan, Respondent was convicted of one felony count of Possession With Intent to Distribute Controlled Substances, in case number 11CR20168-1. Respondent was placed on probation for a period of 24 months with specified terms, and ordered to pay a \$100.00 assessment and a \$150,000.00 fine. A copy of the conviction documents, marked Exhibit A, is attached and incorporated.

7. Respondent failed to notify Complainant of his March 30, 2012, felony conviction within 30 days of the date of the conviction.

The within Complaint is based upon files and records maintained by Complainant and the attached Affidavit of Terri Schrauben.

WHEREFORE, Complainant requests that a hearing be scheduled pursuant to the Administrative Procedures Act of 1969, MCL 24.201 et seq; the Public Health Code, and the rules promulgated thereunder, to determine whether disciplinary action should be taken against Respondent for the reasons set forth above.

FURTHER, pending a hearing and final determination of the within cause, and pursuant to section 16233(5) of the Public Health Code, supra, Complainant states that the public health, safety, and welfare requires emergency action and Respondent's license to practice medicine in the state of Michigan shall be accordingly summarily suspended.

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(7) of the Public Health Code, supra, Respondent has 30 days from the date of receipt of this Complaint to submit a written response to the allegations contained herein. The written response shall be submitted to Complainant, Rae Ramsdell, Director, Bureau of Health Professions, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909.

CONTINUED ON NEXT PAGE

United States District Court
Eastern District of Michigan

United States of America
V.
KANWAR MENDIRATTA

JUDGMENT IN A CRIMINAL CASE

Case Number: 11CR20168-1
USM Number: 45898-039

Todd F. Flood
Defendant's Attorney

THE DEFENDANT:

■ Pledged guilty to count(s) 1 of Information.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. 841(a)(1)	Possession With Intent to Distribute Controlled Substances	July 2010	1

The defendant is sentenced as provided in pages 2 through 4 of this judgment. This sentence is imposed pursuant to the Sentencing Reform Act of 1984

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

3/30/2012
Date of Imposition of Judgment


s/Victoria A Roberts
United States District Judge

4/12/2012
Date Signed

I hereby certify that the foregoing is
a true copy of the original on file in this
Office.

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BY: 

Deputy

EXHIBIT 4 page 1 of 17

DEFENDANT: KANWAR MENDIRATTA
 CASE NUMBER: 11CR20168-1

CRIMINAL MONETARY PENALTIES

	Assessment	Fine	Restitution
TOTALS:	\$ 100.00	\$ 150,000.00	\$ 0.00

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss*	Restitution Ordered	Priority or Percentage
TOTALS:	\$ 0.00	\$ 0.00	

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

26

FILED

JUN 13 2011

CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN MICHIGAN

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
vDivision DIVISION

UNITED STATES OF AMERICA,

No. 11-cr-20168

Plaintiff,

HON. VICTORIA A. ROBERTS

-VS-

OFFENSE(S): 21 U.S.C. §841
Distribution of controlled substance

D-1 KANWAR MENDIRATTA

MAXIMUM PENALTY: Count 1: 20 years
in prison and/or \$1,000,000 fine

Defendant.

SUPRLs 3 to 5 years

RECEIVED

MAY 03 2012

DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
BUREAU OF HEALTH PROFESSIONS
HEALTH INVESTIGATION DIV. - ALLEGATION SECTION

RULE 11 PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant
vDEFENDANT and the government agree as follows:

1. **GUILTY PLEA**

A. **Count(s) of Conviction**

Defendant will enter a plea of guilty to Count(s) 1 of the Information, which
charge (s) distribution of controlled substance.

B. **Elements of Offense(s)**

The elements of Count 1:

One: The Defendant knowingly and intentionally caused the distribution

I hereby certify that the foregoing is
a true copy of the original on file in this
Office.

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BY: 

Deputy

There are no sentencing guideline disputes. Except as provided below, defendant's guideline range is 87 to 108 months, as set forth on the attached worksheets. If the Court finds:

- a) that defendant's criminal history category is higher than reflected on the attached worksheets, or
- b) that the offense level should be higher because, after pleading guilty, defendant made any false statement to or withheld information from His probation officer; otherwise demonstrated a lack of acceptance of responsibility for His offense(s); or obstructed justice or committed any crime,

and if any such finding results in a guideline range higher than 87 to 108, the higher guideline range becomes the agreed range. However, if the Court finds that defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does *not* authorize a corresponding increase in the agreed range.

Neither party may take a position concerning the applicable guidelines that is different than any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections a) and b), above.

agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

C. Special Assessment

Defendant will pay a special assessment of \$100 and must provide the government with a receipt for the payment before sentence is imposed.

D. Fine

Defendant agrees to pay a minimum fine of \$150,000. Defendant agrees that payment of the stipulated minimum fine shall be accomplished by utilizing property seized from Defendant for the purpose of administrative forfeiture (DEA Case No. 17-10-0028). Defendant acknowledges that the Drug Enforcement Administration (DEA) has provided notice of the seizure and that Defendant has filed an administrative claim for the return of the seized property. Defendant further acknowledges that no other person has filed a claim to the seized property, thus allowing Defendant to apply the seized property as agreed to here.

The parties agree that the fine imposed by the Court shall be paid to the Clerk of the Court by utilizing the following seized property:

\$254,428.00 in United States Currency, Asset ID Number 10-DEA-537071.

The parties also agree that after the fine imposed by the Court is paid, the amount

Seventy-Five (75) Pieces of Assorted Jewelry, Asset ID Number 10-DEA-536940.

In entering into this agreement with respect to the assets identified above, Defendant knowingly, voluntarily, and intelligently waives any challenge to the above-described action based upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution. Defendant hereby releases and forever discharges the United States of America, the DEA, and their respective agencies, agents and employees from any and all claims, rights or causes of action, damages, expenses and costs, which Defendant has or may have arising from or concerning the seizure and detention of the above-listed property. Defendant further waives any other rights he may have to contest application of the assets described here.

E. Restitution

N/A

F. Forfeiture

Forfeiture is not being sought in these proceedings.

#7. WAIVER OF APPEAL

Defendant waives any right He may have to appeal his conviction. If the sentence imposed does not exceed the maximum allowed by Part 3 of this agreement, defendant also waives any right He may have to appeal His sentence. If the sentence imposed is within the guideline range determined by Paragraph 2B the government agrees not to appeal the sentence, but retains its right to appeal any sentence below that range.

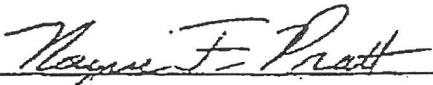
#8. CONSEQUENCES OF WITHDRAWAL OF GUILTY PLEA(S) OR VACATION OF CONVICTION(S)

If defendant is allowed to withdraw His guilty plea(s) or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against defendant within six months after the date the order vacating defendant's conviction or allowing Him to withdraw His guilty plea(s) becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea(s) or to any conduct reflected in the attached worksheets, defendant waives His right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

#11. ACCEPTANCE OF AGREEMENT BY DEFENDANT

This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by 5:00 P.M. on March 4 11, 2011. The government reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

BARBARA L. MCQUADE
United States Attorney


WAYNE F. PRATT
ASSISTANT UNITED STATES ATTORNEY
CHIEF HEALTH CARE FRAUD UNIT


F. WILLIAM SOISSON
ASSISTANT UNITED STATES ATTORNEY

2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-VS-

D-1 KANWAR MENDIRATTA,

Defendant.

Case: 2:11-cr-20168
Judge: Roberts, Victoria A.
MJ: Randon, Mark A.
Filed: 03-25-2011 At 03:19 PM
INFO USA V KANWAR MENDIRATTA (EB)

VIO: 21 U.S.C. §841(a)(1)

INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

(21 U.S.C. §841(a)(1) - Possession With Intent to Distribute Controlled Substances)

D-1 KANWAR MENDIRATTA

That between in or about November 2006, in the Eastern District of Michigan, Southern Division, KANWAR MENDIRATTA, defendant herein, did knowingly, intentionally and unlawfully, distribute, outside the course of professional medical practice and for no legitimate medical purpose, approximately 228 grams of oxycontin (oxycodone), a Schedule II narcotic controlled substance; in violation of Section 841(a)(1), Title 21 United States Code.

I hereby certify that the foregoing is
a true copy of the original on file in this
Office.

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BY: 

Deputy

BARBARA L. McQUADE
United States Attorney

s/F. WILLIAM SOISSON
Assistant United States Attorney
211 W. Fort Street, Ste. 2001
Detroit, MI 48226
william.soisson@usdoj.gov
P24766

Dated: March 25, 2011


Upon checking the Department's records relative to Michigan licensure, Affiant learned that Respondent is licensed to practice as a Medical Doctor in the state of Michigan.

Affiant was not notified by Respondent of the June 13, 2011, conviction within 30 days of the date of the conviction.

Further Affiant saith not.


Terri Schrauben

Subscribed and sworn to before me
this 10th day of September, 2012


Bianka A. Daly, Notary Public
Ingham County, Michigan
My commission expires July 8, 2014.

BIANKA A. DALY
NOTARY PUBLIC-STATE OF MICHIGAN
COUNTY OF INGHAM
My Commission Expires July 8, 2014

This is the last and final page of an Affidavit of Terri Schrauben in the matter of Kanwar V.M. Mendiratta, M.D., File Number 43-12-124020, before the Disciplinary Subcommittee of the Michigan Board of Medicine, consisting of two pages, this page included.